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9 BRETT WAGNER

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RICHARD W. WIER  
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NORTHERN DISTRICT OF CALIFORNIA

E-filing

UNITED STATES DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA,  
SAN FRANCISCO DIVISION

JCS

10 BRETT WAGNER,

11 Plaintiff,

12 v.

13 GC SERVICES, LP,

14 Defendant.

Case No. **11 3169**  
COMPLAINT AND DEMAND FOR  
JURY TRIAL

16  
17 **VERIFIED COMPLAINT**

18 Plaintiff, BRETT WAGNER (Plaintiff), through his attorneys, KROHN & MOSS, LTD.,  
19 alleges the following against Defendant, GC SERVICES, LP, (Defendant):

20 **INTRODUCTION**

- 21 1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15  
22 U.S.C. 1692 *et seq.* (FDCPA).  
23 2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection  
24 Practices Act, *Cal. Civ. Code §1788 et seq.* (RFDCPA).  
25

**JURISDICTION AND VENUE**

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained within.
4. Defendant conducts business in the state of California, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

**PARTIES**

6. Plaintiff is a natural person residing in San Francisco City, San Francisco County, California.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)* and *Cal. Civ. Code § 1788.2(h)*.
8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)* and *Cal. Civ. Code § 1788.2(c)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a collection agency with a business office in Houston, Texas.
10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

**FACTUAL ALLEGATIONS**

11. Defendant is attempting to collect a debt from Plaintiff on behalf of the original creditor, American Express.
12. Plaintiff’s alleged debt owed to American Express arises from transactions for personal, family, and household purposes.

1 13. Within the last year, Defendant called Plaintiff at 410-967-67xx, and left messages for  
2 Plaintiff in an attempt to collect a debt.

3 14. Within the last year, Defendant requested Plaintiff to return the calls to the following  
4 numbers: 314-851-4345 and 800-926-3136, both of which belong to Defendant.

5 15. Defendant's messages for Plaintiff fail to properly disclose the caller's identify. *See*  
6 Defendant's transcribed messages attached as Exhibit A.

7 16. Defendant's messages for Plaintiff fail to state the communication is from a debt  
8 collector. *See* Exhibit A.

9 **COUNT I**  
10 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

11 17. Defendant violated the FDCPA based on the following:

12 a. Defendant violated §1692d of the FDCPA by engaging in conduct that the  
13 natural consequences of which was to harass, oppress, and abuse Plaintiff in  
14 connection with the collection of an alleged debt.

15 b. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without  
16 meaningful disclosure of the caller's identity.

17 c. Defendant violated §1692e of the FDCPA by using false, deceptive, and  
18 misleading representations in connection with the collection of any debt.

19 d. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an  
20 attempt to collect a debt.

21 e. Defendant violated §1692e(11) of the FDCPA by failing to disclose in  
22 subsequent communications that the communication was from a debt collector.

23 WHEREFORE, Plaintiff, BRETT WAGNER, respectfully requests judgment be entered  
24 against Defendant, GC SERVICES, LP, for the following:

25 18. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15  
U.S.C. 1692k,

1 19. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,  
2 *15 U.S.C. 1692k.*

3 20. Any other relief that this Honorable Court deems appropriate.

4 **COUNT II**  
5 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION**  
6 **PRACTICES ACT**

7 21. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as  
8 the allegations in Count II of Plaintiff's Complaint.

9 22. Defendant violated the RFDCPA based on the following:

10 a. Defendant violated §1788.11(b) of the RFDCPA by placing telephone calls  
11 without disclosure of the caller's identity.

12 b. Defendant violated the §1788.17 of the RFDCPA by continuously failing to  
13 comply with the statutory regulations contained within the FDCPA, *15 U.S.C. §*  
14 *1692 et seq.*

15 WHEREFORE, Plaintiff, BRETT WAGNER, respectfully requests judgment be entered  
16 against Defendant, GC SERVICES, LP, for the following:

17 23. Statutory damages of \$1000.00 pursuant to the Rosenthal Fair Debt Collection Practices  
18 Act, *Cal. Civ. Code §1788.30(b)*,

19 24. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection  
20 Practices Act, *Cal. Civ Code § 1788.30(c)*, and

21 25. Any other relief that this Honorable Court deems appropriate.

22 **DEMAND FOR JURY TRIAL**

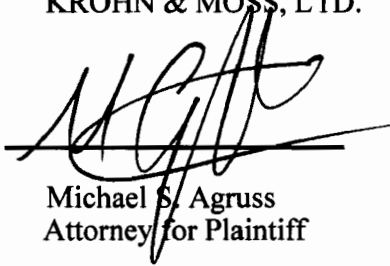
23 PLEASE TAKE NOTICE that Plaintiff, BRETT WAGNER, demands a jury trial in this  
24 case.  
25

1 RESPECTFULLY SUBMITTED,

2 DATED: June 22, 2011

KROHN & MOSS, LTD.

3  
4 By:

A handwritten signature in black ink, appearing to read "MSA", is written over a horizontal line.

5 Michael S. Agruss  
6 Attorney for Plaintiff  
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**VERIFICATION OF COMPLAINT AND CERTIFICATION**

STATE OF CALIFORNIA

Plaintiff, BRETT WAGNER, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, BRETT WAGNER, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE:

6/8/11

  
BRETT WAGNER

**EXHIBIT A**

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**Brett Wagner v. GC Services, LP**

Brett Wagner please call Roberta Barry, 314-851-4345, it is important that we speak please.

Hello, this message is for Brett Wagner. Please call Marty Kattleman at 800-926-3136 at extension 3069. Thank you.

This message is for Brett Wagner. Please call Marty Kattleman at 800-926-3136, extension 3069.